



030639.0040.CPA

Patent

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Young et al.

Serial No.: 08/908,867

Filed: April 10, 2002

For: METHODS FOR REGULATING  
GASTROINTESTINAL MOTILITY

Group Art Unit: 1642

Examiner: YAEN, CHRISTOPHER  
H.

TECH CENTER 1600/2900

JUN 27 2002

RESPONSE TO NOTICE TO FILE MISSING PARTSBOX MISSING PARTS  
Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

Applicants received a Notice to File Missing Parts of Application (CPA) for the above-referenced application on which the Patent Office states that the "statutory basic filing fee is missing and additional claim fees are due" for the subject application. Accordingly, the Patent Office requests submission of those fees plus a surcharge by July 9, 2002.

Applicants hereby attach a copy of the Continued Prosecution Application (CPA) Request Transmittal. As noted on page 2 of that form, Applicants requested that the fees required under 37 CFR 1.16 and CFR 1.17 be charged to Deposit Account No. 50-1273 when this application was filed.

The Notice to File Missing Parts of Application (CPA) requests submission of the statutory basic filing fee, as well as fees for additional claims. Both types of fees are those falling under 37 CFR 1.16.

CERTIFICATE OF MAILING  
(37 C.F.R. §1.8a)

I hereby certify that this paper (along with anything referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

Date of Deposit

Name of Person Mailing Paper

Signature of Person Mailing Paper

Although Applicants inadvertently miscalculated the fee due for multiple dependent claims in this small entity application, the Patent Office was expressly instructed to charge the fees required under 37 CFR 1.16 to Deposit Account No. 50-1273. Thus, Applicants respectfully request that, pursuant to their earlier request, Deposit Account No. 50-1273 now be debited for the appropriate amount to cover the statutory basic filing fee, as well as additional claim fees.

Since Applicants previously provided for payment of these fees, imposition of the surcharge is deemed inappropriate. If, however, the Patent Office still deems it appropriate, the Patent Office is also requested to debit Deposit Account No. 50-1273 for the stated \$65.00 surcharge fee.

Respectfully submitted,

BROBECK, PHLEGER & HARRISON LLP

Dated: 5-21-02

By: Lisa M. McGeehan  
Lisa M. McGeehan  
Reg. No. 41,185

LMM:bjk

**BROBECK, PHLEGER & HARRISON LLP**  
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UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER FILING/RECEIPT DATE

FIRST NAMED APPLICANT

ATTY DOCKET NO./TITLE

TECH CENTER 1600/2900

JUN 27 2002

RECEIVED

DATE MAILED:

**NOTICE TO FILE MISSING PARTS OF APPLICATION (CPA)**  
**Filing Date Granted**

The Continued Prosecution Application (CPA) request filed on 4-10-02 is entitled to a filing date under 37 CFR 1.53(d)(1). The CPA request, however, lacks the filing fee(s) and/or items indicated below.

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the fee(s), item(s), and any surcharge required below to avoid abandonment of this CPA. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

The total amount owed by applicant is the sum of items 1(a) or (b), 2, and 3 (if checked) below.

- ☒ 1. The statutory basic filing fee is:  
☒ missing.  
☐ insufficient.

(a) Applicant must submit \$ \_\_\_\_\_ to complete the basic filing fee and the \$130.00 surcharge set forth in 37 CFR 1.16(e) (non-small entity), or \$ \_\_\_\_\_ to complete the basic filing fee as a small entity and the \$65.00 surcharge set forth in 37 CFR 1.16(e) and file a small entity statement under 37 CFR 1.27 claiming such status (if the prior application was entitled to small entity status and such status is still proper and desired, a new small entity statement is not required (37 CFR 1.28)).

(b) Applicant must submit \$ 435.00 to complete the basic filing fee as a small entity and the \$65.00 surcharge set forth in 37 CFR 1.16(e).

- ☒ 2. Additional claim fees of  
\$ \_\_\_\_\_ (non-small entity) or \$ 42.00 (small entity) for 1 independent claims over 3.  
\$ \_\_\_\_\_ (non-small entity) or \$ 180.00 (small entity) for 20 claims over 20.  
\$ \_\_\_\_\_ (non-small entity) or \$ 140.00 (small entity) for multiple dependent claim surcharge.

Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.

- ☐ 3. A \$50.00 processing fee is required since your check was returned without payment (37 CFR 1.21(m)).  
☐ 4. The CPA request is unsigned. Applicant must file a signed duplicate or ratification of the CPA request.  
☐ 5. Other: \_\_\_\_\_

A copy of this Notice **MUST** be returned with the reply.

Direct the reply and any questions about this Notice to:

Dorothy Shannon

Examining Group 1600

(703) 306-0514

06/19/2002 RUC:DAF1 00000123 501273 00000057

01 FC:231	370.00 CH
02 FC:202	42.00 CH
03 FC:203	180.00 CH
04 FC:204	140.00 CH

# CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL

Submit an original, and a duplicate for fee processing.

(Only for Continuation or Divisional applications under 37 CFR 1.53(d))

CHECK BOX, if applicable:

☐ DUPLICATE

Address to:

Assistant Commissioner for Patents  
Box CPA  
Washington, DC 20231

Attorney Docket No.  
of Prior Application

030639.0040.CIP

First Named Inventor

YOUNG, ANDREW

Examiner Name

HOLLERAN, A.

Group Art Unit

1642

Express Mail Label No.

This is a request for a ☒ continuation or ☐ divisional application under 37 CFR 1.53(d),

(continued prosecution application (CPA)) of prior application number 08, 908, 867

filed on 8/8/97, entitled METHODS FOR REGULATING GASTROINTESTINAL MOTILITY

## NOTES

**FILING QUALIFICATIONS:** The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. Effective May 29, 2000, a CPA may only be filed in a utility or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Continued Examination Practice changes to and Provisional Application Practice," Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office (Apr. 11, 2000).

**C-I-P NOT PERMITTED:** A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

**EXPRESS ABANDONMENT OF PRIOR APPLICATION:** The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

**ACCESS TO PRIOR APPLICATION:** The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

**35 U.S.C. 120 STATEMENT:** In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(a).

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

- ☐ Enter the unentered amendment previously filed on \_\_\_\_\_ under 37 CFR 1.116 in the prior nonprovisional application.
- ☐ A preliminary amendment is enclosed.
- This application is filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4).
  - ☐ **DELETE** the following inventor(s) named in the prior nonprovisional application:  
\_\_\_\_\_
  - ☐ The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
- ☐ A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
- Information Disclosure Statement (IDS) is enclosed:
  - ☐ PTO-1449
  - ☐ Copies of IDS Citations

[Page 1 of 2]

JUN 27 2002

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
TOTAL CLAIMS (37 CFR 1.16(c) or (j))		20 -20* =	20	x \$ 18.00 =	\$ 360.00
INDEPENDENT CLAIMS (37 CFR 1.16(b) or (i))		4 -3** =	1	x \$ 84.00 =	84.00
MULTIPLE DEPENDENT CLAIMS (if applicable) (37 CFR 1.16(d))				+ \$ 140.00 =	140.00
				BASIC FEE (37 CFR 1.16)	740.00
				Total of above Calculations =	1,324.00
				Reduction by 50% for filing by small entity (Note 37 CFR 1.27).	662.00
				* Reissue claims in excess of 20 and over original patent. ** Reissue independent claims over original patent.	TOTAL = 662.00

6. ☒ Small entity status: Applicant claims small entity status. See 37 CFR 1.27.
7. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. 50 - 1273:
- a. ☒ Fees required under 37 CFR 1.16.
- b. ☒ Fees required under 37 CFR 1.17.
- c. ☐ Fees required under 37 CFR 1.18.
8. ☐ A check in the amount of \$ \_\_\_\_\_ is enclosed.
9. ☐ Payment by credit card. Form PTO-2038 is attached.
10. ☐ Applicant requests suspension of action under 37 CFR 1.103(b) for a period of \_\_\_\_\_ months (not to exceed 3 months) and the fee under 37 CFR 1.17(i) is enclosed.
11. ☒ New Attorney Docket Number, if desired 030639.0040.CPA 1  
*[Prior application Attorney Docket Number will carryover to this CPA unless a new Attorney Docket Number has been provided herein.]*
12. a. ☒ Receipt For Facsimile Transmitted CPA (PTO/SB/29A)
- b. ☐ Return Receipt Postcard (Should be specifically itemized, See MPEP 503)
13. ☐ Other: \_\_\_\_\_

**NOTE:**

The prior application's correspondence address will carry over to this CPA UNLESS a new correspondence address is provided below.

**14. NEW CORRESPONDENCE ADDRESS**
☐ Customer Number or Bar Code Label

☐ New correspondence address below

*(Insert Customer No. or Attach bar code label here)*

Name	LISA M. Mc GEEHAN				
	BROBECK, PHLEGER & HARRISON LLP				
Address	12390 EL CAMINO ROAD				
City	SAN DIEGO	State	CA	Zip Code	92130-2081
Country	U.S.A.	Telephone	858.720.2500	Fax	858.720.2555

**15. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Name (Print/Type)	LISA M. Mc GEEHAN
Signature	<i>Lisa M. McGeehan</i>
Registration No. (Attorney/Agent)	41,185
Date	APRIL 10, 2002